

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2683 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MODI BALDEVDAAS BEHCARDAS

Versus

VADNAGAR NAGAR PANCHAYAT

Appearance:

None present for Petitioner

None present for Respondents No. 1 and 2

MR SAMIR DAVE for Respondent No. 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/12/96

ORAL JUDGEMENT

1. Heard learned counsel for the respondent no.3 and perused the contents of this Special Civil Application. On the application of the petitioner, the respondent no.1, Vadnagar Panchayat permitted the petitioner to put a cabin near Water Tank of Arona Well at Vadnagar on the land admeasuring 3' X 4 1/2'. However, the executive committee of the Panchayat under its resolution dated

6-7-1982 resolved not to grant lease in favour of the petitioner of the aforesaid land on the ground that it would create public obstruction. The petitioner has taken the matter in appeal before the second respondent. The second respondent vide its order dated 19th April, 1983 allowed the said appeal filed by the petitioner and set aside the resolution of the executive committee of the Panchayat, respondent no.1 and the petitioner was permitted to put the cabin on the land. Being aggrieved of the order of the appellate authority, the Vadnagar Panchayat preferred a revision application before the third respondent, which under its order dated 30th July, 1983 allowed the same. Hence this Special Civil Application before this court by the petitioner.

2. I do not find any substance in this Special Civil Application. The permission of putting of cabin near Water Tank of Arona Well at Vadnagar on the area of land admeasuring 3 X 4 1/2 ft. was considered to be not in public interest. The putting of this cabin is likely to create public obstruction.

3. Taking into consideration the aforesaid fact in case the executive committee of the Panchayat, respondent no.1 resolved not to grant lease in favour of the petitioner, I fail to see how it could have given a cause much less a sufficient cause to the petitioner to approach to the appellate authority. The appellate authority has committed error to make interference in the resolution passed by the executive committee declining to grant the lease in favour of the petitioner keeping in view the public interest. The revisional authority has not committed any error in setting aside the order of the appellate authority.

4. In the result, this Special Civil Application fails and the same is dismissed. Rule discharged. Interim relief granted by this court stands vacated. No order as to costs.

zgs/-